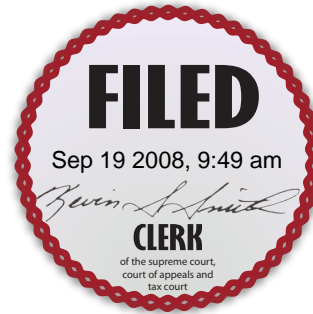


Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



APPELLANT PRO SE:

JOHN H. ADAMS
Bunker Hill, Indiana

ATTORNEY FOR APPELLEE:

STEVE CARTER
Attorney General of Indiana

JUSTIN F. ROEBEL
Deputy Attorney General
Indianapolis, Indiana

**IN THE
COURT OF APPEALS OF INDIANA**

JOHN H. ADAMS,)	
)	
Appellant-Petitioner,)	
)	
vs.)	No. 18A04-0805-PC-268
)	
STATE OF INDIANA,)	
)	
Appellee-Respondent.)	

APPEAL FROM THE DELAWARE CIRCUIT COURT
The Honorable Marianne L. Vorhees, Judge
Cause No. 18C01-9805-CF-32

September 19, 2008

MEMORANDUM DECISION - NOT FOR PUBLICATION

NAJAM, Judge

STATEMENT OF THE CASE

John H. Adams, pro se, appeals the trial court's order denying his motion for immediate release. We address a single issue on review, namely, whether the trial court erred when it denied Adams' motion.

We affirm.

FACTS AND PROCEDURAL HISTORY¹

On September 3, 1998, Adams pleaded guilty to Child Molesting, as a Class B felony. At sentencing, the court ordered Adams to serve twenty years in the Indiana Department of Correction, with credit for time served. On May 15, 2006, Adams was released on parole, the terms of which were governed by a written agreement that he executed before his release. After his release, he signed an additional parole agreement.

On September 25, 2007, Adams was reincarcerated because he had violated the terms of his parole. On March 28, 2008, Adams filed a motion for immediate release, arguing that the Indiana Parole Board ("Parole Board") and the Indiana Department of Correction ("DOC") have denied him various constitutional and statutory rights by reincarcerating him. The trial court denied that motion, and Adams now appeals.

¹ With the exception of the date of conviction, Adams has provided no documentation to support the dates of events in his case. Indeed, he attached a few documents to the end of his brief, which is not authorized by the appellate rules, but failed to supply an appendix, which is required by Indiana Appellate Rule 49(A). ("The appellant shall file its Appendix with its appellant's brief. . . ."). A litigant who chooses to proceed pro se will be held to the same established rules of procedure as trained counsel. Diaz v. Carpenter, 650 N.E.2d 688, 691 (Ind. Ct. App. 1995), cert. denied, 516 U.S. 1013 (1995). When a party fails to comply with Rule 49, we may either dismiss the appeal or order the party to supplement the record on appeal. Here, the State has filed an appendix that provides part of the documentation we need. Also, the issue presented can be resolved by analyzing Adams' application of the law. Thus, we address the merits of Adams' appeal but remind him to comply with the Indiana Rules of Appellate Procedure in the future.

DISCUSSION AND DECISION

Adams contends that the Parole Board and the DOC have denied him his constitutional rights by reincarcerating him for violating his parole. In particular, Adams contends that, as a result of his reincarceration, he is serving the credit-time part of his sentence twice and that the total sentence served will consequently exceed the sentence that was originally imposed. We cannot agree.

We have described the effect of credit time on a sentence as follows:

Credit time generally is applied to determine a defendant's release date from prison, but does not reduce the sentence itself. See [*Miller v. Walker*, 655 N.E.2d 47, 48 n.3 (Ind. 1995)]. In *Boyd v. Broglin*, 519 N.E.2d 541 (Ind. 1988), our supreme court discussed the impact of credit time on a defendant's sentence. Therein, the court stated that credit time "is earned toward release on parole for felons, and does not diminish the fixed term or affect the date on which the felony offender will be discharged." *Id.* at 542. Pursuant to Indiana Code [S]ection 35-50-6-1, a felon is released to parole when he has completed his fixed term of imprisonment less the credit time he has earned. However, he remains on parole until the expiration of his fixed term, until discharged by the Indiana Parole Board, or for a period of two years,[□] whichever first occurs, unless his parole is revoked in the interim. Ind. Code § 35-50-6-1(a), (b). If his parole is not revoked, then at the expiration of the appropriate time, he shall be discharged. Ind. Code § 35-50-6-1(b). Because the legislature has clearly distinguished between those who are discharged from their sentence and those who are released to parole, credit time must be interpreted merely as a means to obtain an early release to parole, or the concept of parole would be rendered meaningless. *Boyd*, 519 N.E.2d at 543. *Boyd* noted that "if credit time were to act as a diminution of the sentence, there could be no parole period as created by Ind. Code § 35-50-6-1. Once a prisoner had served his sentence minus credit time, the sentence would be discharged and the state would have no hold over the prisoner." *Id.* at 543. Rather, Indiana Code [S]ection 35-50-6-1 provides that "[a] person whose parole is revoked shall be imprisoned for the remainder of his fixed term." Ind. Code § 35-50-6-1(c). Thus, although credit time can get a defendant out of prison in fewer months or years than his actual sentence, if he violates his parole during the parole period, the balance of the actual sentence still remains to be served. So, too, should educational credit time be treated.

Ind. Dep't of Correction v. Bogus, 754 N.E.2d 27, 31 (Ind. Ct. App. 2001) (last alteration original). See also Majors v. Broglin, 531 N.E.2d 189, 190 (Ind. 1988) (“Legislative intent is clear that credit time is applied only toward the date of release on parole for felons and does not diminish or otherwise impact the fixed term.”); Boyd v. Broglin, 419 N.E.2d 541, 543 (Ind. 1988) (same).

Here, Adams contends that he “has served eight years of incarceration, earned two years of educational time credit while in credit class one in accordance with I.C. 35-50-6-3 [Subs]ection (a)” and that he “earned ten years of good time [credit] while incarcerated.” Appellant’s Brief at 12. He then argues that the order requiring him to be reincarcerated for the unserved portion of his sentence constitutes “being forced to serve his good time [credit] a second time again [sic].” Id. at 12-13. But, as Bogus shows, the accumulation of good time credit does not reduce a sentence. Instead, the application of good time or any other credit alters a defendant’s release date, but it does not reduce the defendant’s sentence. Again, ““if credit time were to act as a diminution of the sentence, there could be no parole period as created by Ind. Code § 35-50-6-1.”” Bogus, 754 N.E.2d at 31 (citation omitted). The trial court did not err when it ordered Adams to serve the previously unserved portion of his sentence for the violation of his parole. As a result, the trial court did not err when it denied Adams’ motion for immediate release.

Affirmed.

ROBB, J., and MAY, J., concur.